

## Commodity Credit Corporation, USDA

## § 1425.18

(c) A pool shall be eligible for loans and LDP's if:

(1) All of the commodity in the pool is eligible for loans or LDP's, except as provided in paragraphs (d) and (e) of this section;

(2) The commodity was delivered by members to the CMA for their benefit;

(3) The commodity was delivered and the members are eligible for loans and LDP's;

(4) Members retain the right to share in marketing proceeds from the commodity in accordance with §1425.18; and

(5) Members agreed to accept a payment of initial advances from the CMA in accordance with §1425.18(a).

(d) Ineligible commodities may be included in eligible pools when:

(1) The CMA inadvertently included ineligible quantities based on grade, quality, bale weight or repacking in the case of cotton, or other factors; or

(2) There are eligibility discrepancies within FSA records, the producer has certified to the CMA that the commodity is eligible for loan, and there is no market gain or LDP involved in the loan pool for the crop year.

(e) A CMA may, for a period of time as specified in Handbook 1-CMA, include a commodity that is ineligible based on FSA records when the producer has certified to the CMA the commodity is eligible. In these instances, CCC specifies a time period during which CMA's may obtain loan or LDP's on the applicable quantity while the eligibility status is resolved. If the final resolution is that the commodity was ineligible, the CMA must repay any loans outstanding with principal plus interest and any market gains obtained plus interest from the date of receiving the market gain through the repayment date.

(f) The CMA must have in inventory a quantity of commodity delivered by members of each class and grade at least equal to the quantity each class and grade pledged as loan collateral.

(g) Loans will be available to the CMA for the quantity of a farm-stored commodity that is, pursuant to such CMA marketing agreement with a member, part of the CMA's loan pool.

(h) A CMA shall have identity-processed loan pool commodities stored in approved warehouses while the com-

modities are pledged as collateral for loan.

(i) Loan eligibility for commingled commodities stored on a farm or in a warehouse may be transferred to an approved warehouse.

(j) Commodities pledged as collateral for CCC loans shall be free and clear of all liens and encumbrances based on a CMA's financial agreements or the CMA shall obtain a completed form CCC-679, Lien Waiver. When liens are applicable based on CMA financial agreements, the CMA shall provide CCC the completed CCC-679. CMA's shall not take any action to cause a lien or encumbrance to be placed on a commodity after a loan is approved.

(k) If a loan or LDP is obtained for any quantity in a loan pool, allocations of costs and expenses among separate pools for the commodity in the pool shall be made according to generally accepted accounting principles.

(l) A CMA shall not apply marketing losses from a commodity not used to obtain a loan or LDP against the marketing proceeds of a commodity used to obtain a loan or LDP.

(m) CMA's shall not carry forward losses from one loan pool and apply them against a subsequent loan pool without CCC's authorization. CCC may grant authorization when it determines that carrying forward the loss complies with CCC's loan and LDP program intent.

(n) The CMA is responsible to CCC for any loss related to commodities the CMA pledged as collateral for loan or used to obtain LDP related to:

(1) The CMA failing to comply with these regulations;

(2) Changes in quantity or quality of either warehouse or farm stored commodities; or

(3) Liens based on either the CMA's or its members' financial agreements.

### § 1425.18 Distribution of proceeds.

(a)(1) If CCC makes loans or LDP's for any quantity in a loan pool, the related proceeds shall be distributed to members participating in the pool:

(i) Based on the quantity and quality of the commodity delivered by each member;

(ii) Less any authorized charges for services performed or paid by the CMA

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necessary to condition the commodity or otherwise make the commodity eligible for loans or LDP's; and

(iii) Within 15 work days from the date the CMA receives loan or LDP proceeds from CCC, except when loans are redeemed within 15 work days of the date of the loan.

(2) CMA's may credit advances to its members made before loans and LDP's are obtained against the distribution of loan and LDP proceeds requirement in paragraph (a)(1)(iii) of this section.

(b)(1) Except as provided in paragraph (b)(2) of this section, loan pool proceeds shall not be combined with non-loan pool proceeds and the CMA shall distribute loan pool proceeds according to the information it provided CCC in accordance with § 1425.4(b)(7).

(2) Sales proceeds from a loan pool may be combined with sales proceeds from other pools if the proceeds from such pools are allocated among the pools according to the quantity and quality of the commodity included in the pools.

(3) Loan and LDP proceeds shall only be issued to members involved in pools used for loans or LDP's.

(4) When notified by CCC that loan and LDP distributions to a member must be reduced for a program year, farm, or crop, a CMA shall not make subsequent pool distributions and shall reimburse CCC for distributions previously issued, if applicable.

## § 1425.19 Member cooperatives.

A CMA may obtain loans or LDP's on behalf of a member cooperative when the member cooperative is itself a CMA operating in accordance with this part. Loans and LDP's are restricted based on the CMA obtaining the loan or LDP.

## § 1425.20 [Reserved]

## § 1425.21 Records required.

(a) A CMA shall maintain records for each loan or LDP commodity showing the quantity:

(1) Received from each member and nonmember;

(2) Eligible for loans and LDP's;

(3) By quality factors specified in the applicable commodity regulations including class, grade, and quality, where applicable; and

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(4) Of unprocessed inventory broken down by items 1 through 3 above.

(b) Except as provided in paragraph (c) of this section, inventory shall be allocated in the following manner until all inventory in a loan pool is depleted:

(1) For processed commodities, the pool's inventory shall be adjusted when the commodity is withdrawn from inventory for processing; and

(2) For commodities that are not processed, the pool's inventory shall be allocated to the pool and the pool's inventories adjusted when the commodity is shipped.

(c) Records of loan and non-loan pool dispositions do not have to be maintained separately when sales proceeds from pools are allocated according to the quantity and quality of commodity in the pools.

## § 1425.22 Inspection and investigation.

(a) The books, documents, papers, and records of the CMA and subsidiaries shall be maintained for five years after the applicable crop year and shall be available to CCC for inspection and examination at all reasonable times.

(b) At any time after an application is received, CCC shall have the right to examine all books, documents, papers, and determine whether the CMA is operating or has operated in accordance with the regulations in this part, its articles of incorporation or articles of association, and agreements with producers, the representations made by the CMA in its application for approval, and, where applicable, its agreements with CCC.

## § 1425.23 Reports.

(a) CMA's shall annually provide CCC a report of all commodity deliveries involved in loans and LDP's by FSA farm number for each member.

(b) When requested by CCC, CMA's shall report market gains received on behalf of each member.

## § 1425.24 OMB control number assigned pursuant to Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR 1425) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C.